

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THOMAS BOLLING,

Plaintiff,

- against -

CITY OF NEW YORK and P.O. MEYERS,

Defendants.
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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 11/22/2019

18-cv-5406 (PGG) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

The Court, having considered the Government's motion to dismiss and Plaintiff's response, has determined to hold an evidentiary hearing regarding the circumstances of Plaintiff filing his Complaint on June 14, 2018, eleven days after the statute of limitations for such claims had expired.

Plaintiff should be prepared to testify under oath regarding at least the following:

- (1) Plaintiff's signing of the retainer agreement with his former attorney Andrew Bersin, and the retainer agreement's identification of the incorrect date of the alleged incident;
- (2) What Plaintiff understood about the date of the alleged incident and the statute of limitations from the time he retained Mr. Bersin to the time he filed his Complaint;
- (3) The conversation Plaintiff had with Mr. Bersin, on May 24, 2018;
- (4) What Plaintiff understood from Mr. Bersin's letter dated May 25, 2018;
- (5) Any actions Plaintiff considered or took regarding his case after hiring Mr. Bersin on March 30, 2016, but before Mr. Bersin terminated his representation on May 25, 2018;

(6) any actions Plaintiff considered or took regarding his case after Mr. Bersin terminated representation of Plaintiff on May 25, 2018; and

(7) when and how Plaintiff discovered that the Complaint identified the incorrect date of the alleged incident.

(8) the circumstances under which Plaintiff informed Government authorities that the Complaint identified the incorrect date of the alleged incident; as well as the content of the communication(s) between Plaintiff and Government authorities regarding that issue.

All parties are free at the hearing to call witnesses with testimony relevant to the timing of Plaintiff's filing of his Complaint. The Court will not hear any evidence or argument about the substance of Plaintiff's underlying case at the hearing. The hearing will take place on **December 18, 2019 at 10:30 a.m.** in Courtroom 18D, United States Courthouse, 500 Pearl Street, New York, New York, 10007.

SO ORDERED.



Robert W. Lehrburger
United States Magistrate Judge

Dated: November 22, 2019
New York, New York

Copies transmitted to all counsel of record and to:

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